

for The Defense

Volume 6, Issue 7 ~ ~ July 1996

The Training Newsletter for the Maricopa County Public Defender's Office ~ Dean Trebesch, Maricopa County Public Defender

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unimportance of the uninterviewed witnesses, with the judge and/or the prosecution asserting that the witnesses are relatively minor, may not be called, and that the defense should be able to interview them during trial, if indeed they need to be interviewed at all. The defense attorney counters that no person who may take the stand against the client can be regarded as "minor," and he or she must interview the witnesses in advance of trial to effectively prepare.

The prosecutor has listed witnesses who are inconsequential or who may not even be called to testify; yet it is the defense attorney who is subjected to the judge's wrath.

A frustrating situation. The problem is that the prosecutors have a habit of listing everyone in the police report as state's witnesses. This forces the defense to waste time interviewing witnesses whose involvement with the case is so tangential that it is doubtful that they will be called. Yet they cannot safely be ignored. The scheduling and conducting of needless interviews delays the trial, clogs the calendar and the system, ticks off the judges.

At first blush, who can blame the prosecutor for listing everyone in an attempt to be thorough? After all, the case is brand new and no one really knows what twists and turns it may take. The prosecutor does not know what the defense may be, so how can he or she tell what witnesses may be needed? And we can't deny that defense attorneys tend to pitch a fit when a prosecutor tries to call someone at trial who was not listed, even when the omission was inadvertent. So who can blame the prosecutor?

We can, of course; and we should. Case law holds that Rule 15 requires that the prosecution file a **good-faith** list of witnesses, and that the listing of everyone in the police report is improper. There is an

(cont. on pg. 2)

Compelling Good-Faith Witness Lists: *Verbal Spankings and Paper Tigers*

by Jim Haas, Senior Deputy

Day after day, in court after court, defense attorneys line up to request continuances of trials. The majority of the requests are based upon the defense's inability to complete interviews of the state's listed witnesses. There is generally a discussion of the relative



ethics opinion that says the prosecution has an ethical duty to promptly notify the defense when it knows that a listed witness will not be called. An experienced prosecutor generally knows what the defense will be, even without notice. And a diligent prosecutor can always supplement a good-faith list of witnesses if and when the need arises because of changes in the case or actions of the defense. The listing of phantom witnesses causes delay, needless and endless extra work, and constitutes a violation of Rule 15 and ER 8.4(c) and (d). Neither we nor the courts should put up with it.

The Case Law -- The Sad Tale of Mr. Tucker and The Listless Prosecutor

State v. Tucker, 157 Ariz. 433, 759 P.2d 579 (1988), is a prime example of the frustration experienced by defense counsel in discovery disputes with the state. Mr. Tucker was arraigned on August 27, 1984, for first-degree murder. In October, 1984, his public defender filed a notice of defenses. The prosecution provided defense counsel a copy of the police report, but did not file a list of witnesses. In April or May, 1985, some eight months after Mr. Tucker's arraignment, defense counsel wrote the prosecutor asking him to please submit a list of witnesses, so that interviews could begin. The prosecutor did not respond. So, two weeks later, defense counsel filed a motion for disclosure of the state's witnesses. The court granted this

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motion on July 1, and gave the prosecution until July 5 to disclose its witnesses. When the state failed to provide its witness list by July 9, defense counsel filed a motion for sanctions. At a hearing on this motion on July 15, the prosecutor told the court that the witness list was "in the mail." The trial date was now less than a month away, nearly 11 months had passed since Mr. Tucker's arraignment, and still the prosecution had not filed a witness list. Defense counsel "intimated that he might require a continuance" in order to interview the witnesses yet to be disclosed.

So what did the court do? It refused to continue the trial a single day, and criticized *defense counsel* for filing so many motions and "wait[ing] around to the 15th" to complain about the state's failure to disclose! (Apparently, the court did not consider the letter, motion for disclosure, and motion for sanctions filed on July 9 as enough effort on defense counsel's part.) The court ordered the state to hand-deliver a witness list to defense counsel by 5:00 p.m. that day, giving defense counsel less than 30 days to interview the witnesses and prepare for a first-degree murder trial.

But Mr. Tucker's sad story is not over. The state gave defense counsel a list of 29 potential witnesses, including several who seemed clearly inconsequential, and one who lived out of state. Defense counsel filed a motion to continue and for sanctions, alleging that the state had simply listed everyone named in the police report in an obvious attempt to send defense counsel on a "wild goose chase." The prosecutor, of course, argued that he was listing everybody because he did not know what the defense might be (despite having notice) and did not want to be accused of hiding witnesses. The court denied the motion to continue.

On the first day of trial, defense counsel again moved for an accurate list of witnesses. The state now named 12 witnesses, three of whom were not included on the 29-witness list. Defense counsel's motion to preclude one of the newly-disclosed witnesses was denied, because the court felt that defense counsel could interview her right before she took the stand, and could work over the weekend to "check out her story."

On the last day of trial, the state finally presented its Rule 15 disclosure, listing 35 potential witnesses. The 35-person list excluded two witnesses who actually testified for the state, and included 22 persons who did not testify.

(cont. on pg. 3) 

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It is hard to imagine a more egregious set of facts to present to the appellate courts on the issue of prosecutors' discovery practices. Nonetheless, the Arizona Supreme Court did not reverse Mr. Tucker's conviction. The court reasoned that Mr. Tucker had suffered no prejudice because his attorney was aware of the persons named in the police report, had contacted several of them even without a witness list, and eventually was able to interview all of the state's witnesses. In short, Mr. Tucker got no relief because his public defender did an excellent job despite the failures of the prosecutor to follow the rules.

The court did, however, "strenuously disapprove" of the prosecutor's conduct, giving us some very strong language to use in our attempts to persuade trial courts to compel the prosecution to provide a good-faith list of witnesses. The court stated:

We are most concerned that it appears to be a common practice for the prosecution to list all persons named in the police reports as its Rule 15 disclosure. Rule 15 requires the prosecutor to make a good-faith attempt to identify its witnesses for its case-in-chief, as well as its rebuttal witnesses.

We have previously voiced our disapproval of the type of discovery practices exhibited in this case. *State v. Romero*, 130 Ariz. 142, 634 P.2d 954 (1981). We repeat our disapproval, this time mindful that appellate rebuke without reversal may amount to no more than an easily-ignored verbal spanking. While upsetting a criminal conviction is a drastic step, it is one we may in the future be required to take, pursuant to our inherent supervisory authority, if it is the only way to deter prosecutorial defiance of court rules.

Moreover, we note that it is the trial court's responsibility to enforce our disclosure rules. Trial court judges are far more able than we to ensure that prosecutors do not ignore their Rule 15 obligations. When necessary, trial judges possess the power to invoke sanctions—including holding *counsel* in contempt—for failure to comply with

As long as the prosecution can get away with nothing more than a verbal spanking, it is unlikely that their tactics will change . . .

discovery rules. Rule 15.7(a)(3). Perhaps the time has come to make clear that these sanctions are not merely a paper tiger.


759 P.2d at 587. [Emphasis added.]

Tucker was decided in 1988, and the Arizona Supreme Court has yet to make good on its threat to overturn a criminal conviction to deter this type of prosecutorial misconduct. Most trial court judges, therefore, have either forgotten about the court's directive to enforce disclosure rules, or have simply never taken it to heart. The abuses continue, and most defense attorneys who have tried to get the courts to act against the prosecution have been disappointed with the result. For this reason, many defense attorneys have become complacent, letting the prosecutors schedule and interfere with interviews, and doing nothing when the prosecution lists everyone in the police reports as witnesses. The result is an increase in workload and delay in resolving cases.

The Ethics Opinion--Can You Believe They Even Asked?

On March 18, 1994, the State Bar Ethics Committee issued Opinion No. 94-07, which dealt with three questions submitted by a Deputy Maricopa County Attorney regarding the prosecution's duty to disclose exculpatory information to the defense. One of the scenarios presented was as follows:

The defendant is charged with aggravated Driving While Under the Influence, a class 5 felony. The arresting officer observed the defendant's driving, administered field sobriety tests, and administered the breath test. The arresting officer testified at the preliminary hearing and a record was made of his testimony. Soon thereafter, he passed away. The Deputy County Attorney offered the defendant a stipulated sentence prior to the officer's passing. The defendant is contemplating whether to take the offer or proceed to trial. Must the Deputy County Attorney disclose the fact that the officer passed away? If so, when?

(cont. on pg. 4) 

The Ethics Committee opined that the prosecutor in this situation has an obligation to notify the defense attorney that the officer will no longer be a witness. "To do otherwise would be to deceive and mislead the defendant and be prejudicial to the administration of justice. ER 8.4(c) and (d). This disclosure should be made as soon as the prosecutor learns of the unavailability of the witness, and certainly before the defendant is asked to respond to the plea offer."

This opinion makes it clear that the prosecution has an **ethical** obligation to file a good-faith list of witnesses, and not merely a listing of all persons named in the police report. In addition, the prosecution has the duty to revisit its witness list as the case preparation proceeds, and to remove the names of witnesses who become unavailable, are determined to be unnecessary, or for some other reason, are no longer expected to testify.

What Now, Smart Guy?

The *Tucker* case and Ethics Opinion No. 94-07 certainly seem to give the defense a solid basis for demanding that the prosecution submit and maintain a good-faith list of witnesses. Nonetheless, prosecutors continue to file laundry lists of witnesses containing the names of everyone named in the police report. Why?

The reason is that we don't do anything about it; and the primary reason we don't do anything about it is that the courts won't do anything about it. So the solution to the problem must come from the defense and the judiciary.

Defense attorneys must file motions to compel the submission of good-faith witness lists whenever the prosecution's list of witnesses appears to contain all the names in the police report, or the names of apparently inconsequential witnesses. A proposed motion is included at the end of this article [see *Pages 5 and 6*], and I have it on diskette for anyone who wants it.

The courts must be willing to order the prosecution to trim lists to those actually expected to testify, and to take action when the prosecution fails or refuses to do so. The Presiding and Associate Presiding Criminal Judges of Maricopa County have both indicated that this should be done in appropriate cases, and they have wondered why defense attorneys do not litigate the issue.

Sure, the prosecutors will come into court and insist that, as far as they know, they will be calling all listed witnesses to testify. Fine. The judge must then let the prosecutor know that the court will be watching to determine whether that statement is made in good faith, and that sanctions will result if it later appears that it was

not. If the courts are not willing to take these steps, then they should stop castigating defense counsel when continuances are required to complete useless interviews.

Both the defense and the judiciary should keep track of prosecutors who habitually list numerous witnesses and then call just a few. This office should keep a central log of case names, numbers, and details on those prosecutors, to bolster future motions to compel in cases involving them. To that end, I ask that anyone who has experienced this problem to contact me so that I can start the log.

The appellate courts must eventually take the drastic step threatened in *Tucker* and reverse convictions in cases where the prosecution defies the rules. As long as the prosecution can get away with nothing more than a verbal spanking, it is unlikely that their tactics will change, and it is unlikely that trial courts will consistently enforce the rules. Sanctions will remain a paper tiger.

The defense must give the judges, trial and appellate, ample opportunities to address the problem by filing motions where they are warranted. The defense must also remember that "what is good for the goose is good for the gander." While listing witnesses is not as much of a problem for us, we must also be willing to submit and maintain good-faith witness lists if we are to get and keep the support of the judiciary in this effort.

The courts have been lamenting this problem since 1981, at the latest. Workloads, delay, and court congestion have dramatically worsened since then. It is time to give the paper tiger some real teeth, and to make the spankings sting a bit. Ω

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA,)	
)	No. CR
Plaintiff,)	
)	MOTION TO COMPEL PROSECUTION
)	TO SUBMIT GOOD-FAITH LIST
v.)	OF WITNESSES
)	
)	(Assigned to the Hon.
))
)	(Oral Argument Requested)
Defendant.)	
_____)	

| moves the court for an order compelling the prosecution to submit a good-faith list of its witnesses, pursuant to Rule 15.1, Arizona Rules of Criminal Procedure, and State v. Tucker, 157 Ariz. 433, 759 P.2d 579 (1988). Specifically, | requests that the prosecution be ordered to reduce the list it has already filed by deleting all witnesses except those actually expected to testify at trial.

RESPECTFULLY SUBMITTED this ____ day of |, 1996.

MARICOPA COUNTY PUBLIC DEFENDER

By: _____
|
Deputy Public Defender

MEMORANDUM OF POINTS AND AUTHORITIES

The prosecution has filed a Notice of Disclosure under Rule 15.1, listing | witnesses that the prosecutor may call at trial. It appears that the prosecution has listed every name which appears in the police reports. Several of the witnesses appear to be inconsequential and/or redundant, and probably will not actually be called to testify at trial.

Rule 15 requires the prosecution to make a good-faith attempt to identify its witnesses. State v. Tucker, 157 Ariz. 433, 759 P.2d 579, 587 (1988). The practice of listing all persons named in police reports as prosecution witnesses has been strongly condemned by the Arizona Supreme Court, which has threatened to overturn convictions as a sanction for this violation of Rule 15. Tucker, supra; State v. Romero, 130 Ariz. 142, 634 P.2d 954 (1981).

Defense counsel has a duty to interview all witnesses listed by the prosecution in order to provide effective and ethical representation. If the prosecution is not required to submit a good-faith witness list, it is likely that a significant amount of time will be wasted interviewing witnesses who will not be called to testify. This is likely to delay the trial unnecessarily, resulting in the violation or forced waiver of |'s constitutional right to a speedy trial, and an increase in the court's backlog of cases.

For the foregoing reasons, | requests that the prosecution be compelled to delete any names that appear on its witness list except those the prosecution truly plans to call at trial.

RESPECTFULLY SUBMITTED this ____ day of |, 1996.

MARICOPA COUNTY PUBLIC DEFENDER

By: _____
|
Deputy Public Defender

Some Observations

by Dean Trebesch, Public Defender

Come each January 1, many of us reflect back on the past year's memorable occurrences, both good and bad. In our business, I usually take stock in July of the fiscal year just ended, and consider what went right and what remains unfinished. For us, some heavy duty accomplishments were realized. Three come to mind pretty quickly, and were achieved directly through our persistence.

*** Vacation credit for days off without pay, bar dues, office automation plan:**

1) In recognition of the many days off without pay sacrificed by our employees during the FY 93-94 cutbacks, we were given special recognition last November by County Administrative Officer Smith, and were credited with up to ten of those days for paid vacation use this year.

2) After repeated efforts, we received County permission in April for budgetary payment of our attorneys' 1996 and 1997 bar dues. This marked the first time we were allowed to reimburse for these mandatory assessments.

3) With help from others, our push to gain County authorization for an automation plan for this office finally was successful in June. Through budgetary savings and the reworking of our proposal, our trial division should be automated within the next several months. This will enable WordPerfect use, office e-mail, and electronic communications with the County Attorney/Legal Defender via personal computers at every trial division employee's desk. Appeals division PC's will be upgraded, while other options will be explored to automate the balance of our office as soon as possible.

*** Other positive news for the year:**

1) To correct some of the inequities caused by the County's recent tough budgetary times, we were able to provide 86 attorney class adjustments and 39 support staff promotions. Squeezing that many into our budget became a significant accomplishment, although more would certainly have been preferable. Our highest priority is to continue along that route, as much as our lean budget will allow. Recognizing and rewarding employees is paramount, especially after the sacrifices many have endured.

2) Our litigation assistant pilot project began in

January. Started in Group D, our two legal assistants have done remarkably well to date, and it is hoped that success will enable the eventual expansion of this program.

*** New faces during the year:**

1) Twenty-one attorneys joined our ranks since last July, filling existing vacancies. They quickly stepped into the breach and have demonstrated great potential.

2) A number of attorney supervisory changes occurred. Jim Haas became our Senior Deputy, filling a modified version of our former Assistant Public Defender role. Mary Miller took over our Mental Health Division, succeeding Dick Rice, while Larry Grant assumed Group B's mantle from Brian Bond, Russ Born succeeded Christopher Johns in our training director position, and Paul Prato filled Carol Carrigan's role as the head of our Appeals Division.

*** Areas requiring further attention:**


There is always a need to improve. To get complacent is to stagnate as an organization. Troubles abound in this legal business. Realistically, once one problem is resolved it seems we are hit by two or three more.

Caseloads need improvement. Caseload standards should be established by the Supreme Court to firmly address ethical caseload limits and minimal standards in representation of all clients. The compensation package for attorneys (and support staff) should be upgraded to facilitate the hiring and retention of the best qualified and deserving persons. Turnover must be lowered, as it is costly, unproductive, and a hindrance to effective representation. Support staff ratios need to be strengthened.

All of these issues are interrelated, in my opinion, and all heavily impact our morale and our legal services. Each requires the assistance of outside entities before they can be resolved. We will continue our efforts to actively advocate for improvements in these areas, especially regarding caseload/staffing relief. Unfortunately, as State Senator Marc Spitzer stated recently, "Nobody gets political brownie points for helping indigent defense."

*** A Postscript**

Occasionally, in the future, I would like to highlight a particular employee who has done a remarkable job. Many examples exist, most of which go unnoticed.

(cont. on pg. 8) 

In this issue, I would like to highlight two individuals. Both are departing the office, regrettably.

Bill Carter came here ten years ago. By then he already had accomplished enough to equate to a full career by most people's standards. He had been a legal advisor to the Board of Supervisors, had served as the Maricopa County Public Fiduciary, and had held the prestigious position of Chief Magistrate of the Phoenix Municipal Court. While with this office, Bill ably served in our trial division and periodically in our mental health division. Over the last several years he worked at our Durango Juvenile office. He unselfishly served this office and our clients, and will be missed. We hope to occasionally utilize his services as a temporary back-up attorney at our mental health division, during his retirement.

Georgia Bohm has been unheralded for far too long. She has been the driving force behind many of our key projects (e.g., English and Spanish client videos, Spanish classes) and has done an outstanding job with support staff training issues. The high quality of this newsletter, in my estimation, is attributable largely to her talents and commitment. Not surprisingly, given her abilities, Georgia was accepted into law school and will start at ASU next month. Our loss is their gain, as we will sorely miss her pleasantness and training services.

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Justice is conscience, not a personal conscience but the conscience of the whole of humanity. Those who clearly recognize the voice of their own conscience usually recognize also the voice of justice.


***---Alexander Solzhenitsyn,
Russian Novelist***

Witness Interviews: Points and Procedures

by Judy Segerstrom, Legal Secretary--Trial Group C

Editor's Note: In an effort to save the valuable time of attorneys and their secretaries, Ms. Segerstrom recently created a list of suggestions to be considered when conducting an interview of an individual. Some interview tapes have proven to be unnecessarily difficult to transcribe and can consume a major portion of a secretary's day. (Ms. Segerstrom estimates that a normal 30-minute interview can take up to three hours to transcribe, while a bad recording of a 30-minute interview can waste up to seven hours of a secretary's day.) Her recommendations are listed below.

1. Before starting the interview, test the tape recorder for reception and quality of the tape being used. Don't use your own voice to test, but place the recorder where you plan to keep it during the interview, engage in brief conversation with the witness, then test to see the reception. You should be able to hear all voices equally.
2. Remind the witness to speak directly into the tape recorder.
3. When you begin the interview, go over some "ground rules" with the witness as follows:
 - a. Instruct the witness to wait until you complete your sentence before he/she answers and you will give the witness the same courtesy. This makes for a clean recording.
 - b. Instruct the witness that only one person should talk at a time. In other words do not talk over each other. It is difficult to decipher who is saying what.
 - c. Instruct the witness to answer each question orally, not with motions of the head. The tape recorder does not record body motions.
 - d. Instruct the witness to answer with a "yes" or "no" instead of "uh huh" or "uh uh." Tell the witness that if you confirm the answer with "Is that a yes?" or "Is that a no?", it is merely to clarify his/her answer.

(cont. on pg. 9) 

4. Before starting the interview, identify all persons in the room. Please instruct other counsel to first identify themselves if they wish to speak. If there are many people present, strange voices are difficult to identify.
5. During the interview, please try not to start your next questions with "okay," "uh," or repeat the witness's answer before you ask a question. It is okay to clarify the witness's response if you did not hear it.
6. Do not ask broken or compound questions. It has the potential to create an ambiguity when the witness responds, i.e., what part of the question did the witness answer. Know your questions before you ask them.
7. Please speak clearly and enunciate. What sounds good in person loses its clearness when put on tape.
8. Do not shuffle papers or hit the desk when recording. It covers the sound of the voice being recorded and the words are lost in the transcription.
9. Please limit your "chit chat" with opposing counsel. It gets transcribed with all of the other conversations and is usually not relevant to the case.
10. When the interview is concluded, please indicate so on the tape.
11. Record only one interview on a tape side. Be sure to label the side of the tape with the name of the witness being interviewed. Do not leave gaps on one side and start a new interview. Those interviews are often lost or forgotten.
12. Listen to the interview tape before requesting that it be transcribed. Be sure that the interview is necessary for trial or trial preparation. An unnecessary transcription wastes the valuable resources of your secretary.
13. Plan ahead when requesting a tape transcription. Give the secretaries plenty of time to transcribe the matter. Do not give an interview tape of a case that is currently being tried. It has happened in the past that the transcription was concluded at the same time the jury verdict was announced. Again, this is a waste of valuable employee resources.

Please keep the above points and procedures in mind when taking an interview. It will make all of our jobs easier and more efficient. Ω

Correctional Health Services

Editor's Note: The following information is taken directly from a memo from Susan Svitak, Interim Director of Maricopa County Correctional Health Services (CHS), to Dean Trebesch regarding important CHS procedures that affect the representation of our clients.

It has come to the attention of Maricopa County Correctional Health Services that there may be some confusion and, unfortunately, related delays, regarding the routing of court orders, subpoenas and requests for information from the judiciary to Correctional Health Services, its physicians, providers or employees.

In an effort to assist the Superior Court, public defender, and county attorney, and to expedite any requests from the Court, Correctional Health Services requests that all court orders, subpoenas, requests for information regarding Correctional Health Services, its physicians, health care providers, or administrators, be directed to the CHS office at 301 West Jefferson, Suite 160, Phoenix, Arizona 85003, Attention Ms. Linda Bouwens, Legal Liaison; *with the exception of routine requests for medical records* which should continue to be directed CHS Medical Records, Madison Street Jail 4th Floor, Attention Erlinda Ortega.

Ms. Bouwens, as Correctional Health Services Legal Liaison, is charged with the responsibility of ensuring timely and accurate responses to requests from the Superior Court, public defender and county attorney. Linda can be reached directly at 506-2266 or via digital pager at 420-6051.

Should you have any questions or suggestions regarding the above recommended procedure, please contact Ms. Bouwens or you may call me at 506-2353. Ω

If one really wishes to know how justice is administered in a country, one does not question the policemen, the lawyers, the judges, or the protected members of the middle class. One goes to the unprotected--those, precisely, who need the laws's protection most!--and listens to their testimony.

----James Baldwin, U.S. author

MCPD Reserve Library

Editor's Note: The Reserve Library, which is located at the far end of the 10th floor--Luhrs Building, contains numerous books pertinent to criminal defense. A list of the books, with their authors and publication dates, is provided below for your quick review. To check out a book, please see Tonya Allen, who oversees the library.

American Bar Association

Defeating Delay

Developing And Implementing A Court Delay Reduction Program (1986)

American Psychiatric Association

Diagnostic And Statistical Manual Of Mental Disorders (Fourth Edition) DSM-IV (1994)

Arky, Ronald, M.D.; Davidson, Charles S., Professor of Medicine and Master, Francis Weld Peabody Society, Harvard Medical School

Physicians Desk Reference, (2) (1994)

Arnolds, Edward B.; Carroll, William K.; Lewis, Melvin B.; and Seng Michael P.

Trial Practice Series

Eyewitness Testimony

Strategies And Tactics (1984)

Aron, Roberto; Fast, Julius; and Klein, Richard B.

Trial Practice Series

Trial Communication Skills (1986)

Trial Practice Series

Trial Communication Skills

Second Edition (1996)

Aron, Roberto and Rosner, Jonathan L.

Trial Practice Series

How To Prepare Witnesses For Trial (1985)

Bailey, F. Lee and Rothblatt, Henry B.

Fundamentals Of

Criminal Advocacy (1974)

Successful Techniques For Criminal Trials

Second Edition (1985)

Bender, Matthew

Reference Manual On Scientific Evidence (1994)

Bennett, W. Lance and Feldman, Martha S.

Reconstructing Reality In The Courtroom

Justice And Judgment In American Culture (1981)

Bennett, Cathy E. and Hirschhorn, Robert B., Esq.

Bennett's Guide To Jury Selection And

Trial Dynamics In Civil And Criminal Litigation

(1993 edition and 1995 edition)

Bennett's Guide To Jury Selection And Trial Dynamics In Civil And Criminal Litigation: Appendices Volume (1993)

Berkow, Robert, M.D. and Fletcher, Andrew J.

The Merck Manual Of Diagnosis And Therapy

Fifteenth Edition (1987)

Bernheim, David

Defense Of Narcotics Cases: Volume One (1986)

Defense Of Narcotics Cases: Volume Two (1986)

Defense Of Narcotics Cases: Volume Three (1986)

Billings, Paul R.

DNA On Trial

Genetic Identification And Criminal Justice (1992)

Bortner, M.A.

Inside A Juvenile Court:

The Tarnished Ideal Of Individualized Justice (1984)

Clayman, Charles B., M.D.

The American Medical Association Guide To Prescription And Over-The-Counter Drugs:

*Brand Name Drugs*Generic*Vitamins*Minerals*Food Additives* (1988)

Clark, Boardman, Callaghan

Criminal Practice Law Report

Drinking \ Driving Law Letter (1992-1996)

Cohen, Neil P. and Gogert, James J.

Individual Rights Series

The Law Of Probation And Parole (1983)

De Gennaro, Nat

Arizona Statistical Abstract

A 1990 Data Handbook (1990)

Doris, John


The Suggestibility Of Children's Recollections

Implications For Eyewitness Testimony (1991)

Fulton, Charles C.

Modern Microcrystal Tests For Drugs

The Identification Of Organic Compounds By Microcrystalloscopic Chemistry (1969)

(cont. on pg. 11) 

- Gerber, The Honorable Rudolph J.
Recommended Arizona Jury Instructions Criminal (1989)
- Ginger, Ann Fagan
Jury Selection In Civil & Criminal Trials Volume One (1975-1984)

Jury Selection In Civil & Criminal Trials Volume Two (1975-1984)
- Grimes, William A.
Criminal Law Outline 1988-1993 (1988)
- Gudjonsson, Gisli H.
The Psychology Of Interrogations, Confessions And Testimony (1992)
- Hall, Wesley John Jr.
Professional Responsibility Of The Criminal Lawyer (1987)

Professional Responsibility Of The Criminal Lawyer: Second Edition (1994)


Professional Responsibility Of The Criminal Lawyer: Second Edition (1996)
- Hermann, Michele G.
Search And Seizure Checklist: 1995 Edition (1995)
- Imwinkelried, Edward J.
Exculpatory Evidence (1982-1991)

Uncharged Misconduct Evidence 1990 Cumulative Supplement (1985-1990)
- Imwinkelried, Edward J.; Giannelli, Paul C.; Gilligan, Francis; and Lederer, Fredric I.
Courtroom Criminal Evidence (1987)

Courtroom Criminal Evidence Second Edition (1987-1993)

1992 Cumulative Supplement Courtroom Criminal Evidence (1987-1992)
- Julien, Alfred S.
Opening Statements 1991 Cumulative Supplement (1990)
- Kostelanetz, Boris and Bender, Louis
Criminal Aspects Of Tax Fraud Cases Third Edition (1980)
- Kurzban, Ira J.
Immigration Law Sourcebook
- Second Edition A Comprehensive Outline And Reference Tool* (1991)
- Lawless, Joseph F. Jr.
*Prosecutorial Misconduct Law * Procedure * Forms* (1985)
- Malcolm, Joyce Lee
To Keep And Bear Arms: The Origins Of An Anglo-American Right (1994)
- Marcus, Paul
The Entrapment Defense (1989)

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- Mauet, Thomas A.
Fundamentals Of Trial Techniques Second Edition (1988)
- Miller, Charles L. and Bowman, Frank
Transportation Laws Of Arizona (1986)
- Moses, Ray J.D., LL.M., S.J.D.
Jury Argument In Criminal Cases A Trial Lawyer's Guide (1985)
- National Jury Project; Krauss, Elissa; and Bonora, Beth
Jury Works: Systematic Techniques, Volumes One and Two (1983-1995)
- Nedrud and Oberto
The Supreme Court And The Criminal Law Volume One A. Arrest, Search And Seizure B. Confessions / Self Incrimination / Identification (1978-1984)
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Bulletin Board

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◆ Moves/Changes:

John Blavatsky, trial attorney in Group A, will be leaving our office in August to go to the Ukraine in September as part of the American Bar Association's (ABA) Central and East European Law Initiative (CEELI). This program is a public service project of the ABA designed to advance the rule of law in emerging democracies, supporting legal reform in Central and Eastern Europe and the New Independent States of the former Soviet Union.

The ABA selected Mr. Blavatsky and an attorney from Boston to work in the Ukraine as part of CEELI whose focus areas include: promoting judicial independence, supporting reform of the legal profession, assisting with criminal law reform, supporting legal education reform, and legislative assistance.

Mr. Blavatsky, who is fluent in Ukrainian, will live in Kiev in an apartment provided by the ABA. He plans to return to our office after a year's participation in the CEELI program.

Jennifer James, Melvin Kennedy, Laura Plimpton, and Christopher Trautman (trial attorneys), and **Amy Disney/Singleton** (from our Southeast Records office) left our office in July. Ω

June, 1996 Jury & Bench Trials--Group A

Dates: Start/Finish	Attorney	Investgr.	Judge	Prosecutor	CR# and Charge(s)	Class F/M	Dang.	Priors	On Prbm./ Parole	Result (w/ hung jury, # of votes for not guilty / guilty)	Bench or Jury Trial
June 10-13	Tom Timmer	N. Jones	Yarnell	Allen	CR95-07263 Aggravated Assault	F3	✓			Not Guilty of Agg. Assault-- Guilty of lesser-included Disorderly Conduct, Dangerous	Jury
June 11-11	James Cleary	C. Yarbrough	Skelly	Alt	CR96-02072 Theft	F3		2	Prbm.	Guilty	Jury
June 11-12	Steve Rempe		Sargeant	Johnson	CR95-09148 Resisting Arrest	F6				Guilty	Jury
June 13-14	Jim Likos		Campbell	Bernstein	CR96-01852 Aggravated Assault Theft	F3 M1	✓			Guilty	Jury
June 14-19	Marie Farney	D. Beever	Dunevant	Skibba	CR96-00438 Aggravated Assault	F3	✓			Not Guilty of Agg. Assault-- Guilty of lesser-included Disorderly Conduct, Dangerous	Jury
June 17-20	John Blavatsky and Michael Hruby		Yarnell	Sorrentino	CR96-01508 Theft	F5				Guilty	Jury
June 17-20	Pro Per - (Rick Tosto Advisory Counsel)		Bolton	Charnell	CR95-11760 Burglary	F4		4		Hung (7 guilty/1 not guilty)	Jury
June 19-21	Brian Bond		Dunevant	Tucker	CR96-01737 Robbery	F4		1		Guilty	Jury
June 25-27	Peg Green		Dougherty	Skibba	CR95-02910 Armed Robbery	F2				Guilty	Jury

Jury & Bench Trials--Group B

Dates: Start/Finish	Attorney	Invstgr.	Judge	Prosecutor	CR# and Charge(s)	Class F/M	Dang.	Priors	On Prbmn./ Parole	Result (w/ hung jury, # of votes for not guilty / guilty)	Bench or Jury Trial
June 3-11	Patricia Riggs and Larry Blieden		Ryan	Armijo	CR95-06739(B) Cocaine- Poss F/Sale Imp/Trsp Marijuana-Sale Imp/Trsp Narc. Drugs-Sale	F2 F2 F2				Guilty	Jury
June 24-26	Larry Blieden		McDougall	Rea	CR96-00521 Sell Crack Cocaine	F2		1	✓	Guilty	Jury
June 4-28	Tim Agan and Peter Claussen	J. Castro	Nastro	Jorgensen	CR95-08243 Murder 1 Drive-By 2 cts. Aggravated Assault	F1 F2 F3	✓ ✓ ✓			Guilty on all counts.	Jury
June 20-27	Stephen Whelihan	D. Erb	Sticht	Feinberg	CR 95-12889 Burglary 4 cts. Aggravated Assault	F2 F3				Not Guilty on 3 cts. of Agg. Assault. Dismissed 1 ct. Agg. Assault and Burglary.	Jury

Jury & Bench Trials--Group C

Dates: Start/Finish	Attorney	Invstgr.	Judge	Prosecutor	CR# and Charge(s)	Class F/M	Dang.	Priors	On Prbmn./ Parole	Result (w/ hung jury, # of votes for not guilty / guilty)	Bench or Jury Trial
June 11-21	Leonard Whitfield	G. Beatty	Araneta	McKay	CR95-92988 3 cts. Aggravated Assault	F3	✓	2		Counts I & III--Guilty Count II--Hung (10 G/2 NG)	Jury
June 17-20	Wes Peterson and Jim Leonard	T. Thomas	Ryan	O'Neill	CR93-92114 3 cts. Sex Cond w/Mnr; 9 cts. Child Molest; 1 ct. Sex Abuse Und 15; 1 ct. Public Indecency	F2 F2 F3	✓			Not Guilty--Public Indecency, 1 ct. Child Molest; Guilty on all other counts	Jury
June 20	Christine Israel		Melton Scotts, J.Ct.	Goldstein	Viol. Restitution Order	M				Guilty	Bench
June 24	Mark Potter		Hamblen W.Mesa J.Ct.	Miller	TR96-00864 2 cts. DUI	M1				Guilty on both counts	Jury
June 26	Frank Sanchez		Ore Tempe J.Ct.	Brenneman	CR95-1208 Interfering w/Jud. Proc.	M1				Guilty	Bench

Jury & Bench Trials--Group D

Dates: Start/Finish	Attorney	Invstgr.	Judge	Prosecutor	CR# and Charge(s)	Class F/M	Dang.	Priors	On Prbm./ Parole	Result (w/ hung jury, # of votes for not guilty / guilty)	Bench or Jury Trial
May 18-18	Robert Billar		Scrubbellos N.E. JP Ct.	Gingold	1 Ct. Threatening/Intimidating	M				Not Guilty	Bench
June 10-28	Tim Agan and Peter Claussen		Nastro	Jorgensen	CR-95-08243 1 Ct. Murder 1 1 Ct. Drive by Shooting 2 Cts. Agg Asslt	F1 F2 F3	✓ ✓ ✓			Guilty All Counts	Judge
June 10-10	Elizabeth Feldman	H. Jackson and A. Velasquez	Gutierrez S. Phx. JP Ct.	Pappalardo	CR-95-2663 1 Ct. Criminal Damage	M				Guilty in Absentia	Bench
June 12-13	Marci Hoff Gary Bevilacqua	R. Barwick	DeLeon	Collins	CR-96-01594 1 Ct. Sex Abuse over 15	F5				Guilty	Jury
June 25-26	Joe Stazzone		Sheldon	Barret	CR-96-00128 1 Ct. Burglary 1 Ct. Theft	F4 F6				Guilty Both Counts	Jury

Jury & Bench Trials--Office of the Legal Defender

Dates: Start/Finish	Attorney	Invstgr.	Judge	Prosecutor	CR# and Charge(s)	Class F/M	Dang.	Priors	On Prbm./ Parole	Result (w/ hung jury, # of votes for not guilty / guilty)	Bench or Jury Trial
June 10-13	Greg Parzych		Scott	Cook	CR95-93225 Armed Robbery	F2		11	✓Parole	Guilty	Jury
June 10-21	Neal Taylor		Cole	Reckard	CR91-07204 33 cts. Sexual Exploitation of Minors	F2	✓			Guilty on 32 counts. Not Guilty on 1 count.	Jury

Computer Corner

This column is designed to provide simple computer tips helpful to people in the legal field. These tips are fashioned for WordPerfect 5.1 in DOS. If you have any problems, questions or suggestions that you would like to share, please contact Ellen Hudak in Administration (506-8042).

DELETING FILES:

A quick way to delete all the files in a directory is to mark all the files with an *, press Home (*) or (Alt-F5). You can also unmark all marked files with these keystrokes.

MOVING AROUND IN COLUMNS:

- (Alt+Right Arrow) moves the cursor one column to the right.
- (Alt+Left Arrow) moves the cursor one column to the left.
- (Ctrl+Home), (End) moves the cursor to the last column.
- (Ctrl+Home), (Home), (Left Arrow) moves the cursor to the first column.
- (Ctrl+Home), (Up Arrow) moves the cursor to the top of the current column.
- (Ctrl+Home), (Down Arrow) moves the cursor to the bottom of the current column.

CREATING BLANK LINES:

To create blank lines to be filled in (as with voir dire questions), set your spaces to underline. To do this, press Format (Shift-F8), (4) Other and (7) Underline Spaces. Answer (Y) for the spaces and (Y) for the tabs. Press Exit (F7) to return to the document screen.

To underline to the right margin, place the cursor anywhere on the line and press Underline (F8), Flush Right (Alt-F6) and Underline (F8) again to end the underline at this point. This inserts a blank line across the page. To see how this will print, press Print (Shift-F7), (6) View Document. Press Exit (F7) when finished.

To list several blank lines together you can do it as explained in the paragraphs above. This will create one line. At the end of the line after you have pressed Underline (F8) for the second time, press enter to go to another line and repeat the process. Or after you have set your spaces and tabs to the underline mode, you again place your cursor anywhere on the line and press (Underline) (F8), Flush Right (Alt-F6) but at the end of that line do not turn your underlining off by pressing (F8) again, simply press your Enter to move your cursor to the next line, press Flush Right (Alt-F6), and continue for as many lines as you wish to create.

SUPERSCRIFT:

If you are typing a name such as McDonald, McPherson, etc, and the person prefers that the c sits up in the "air" instead of on the "ground", simply use your superscript feature. Type M, press Font (Ctrl-F8), (1) Size and (1) Superscript, type c, move your cursor to the right by pressing your right arrow to get beyond your superscript code and continue with the rest of the name.

Brainteaser for July.¹

(Answer will be in August's issue of "for The Defense")

JUST FOR FUN

DRESSED
BIT

¹Answer to June's
"Brainteaser" is
An Afterthought

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